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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
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		10/719,475	November 21, 2003
		First Named Inventor	
		Nicholas S. Huslak, et al.	
		Art Unit	Examiner
		2163	Helene R. Rose
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant/inventor. _____ /Marisa J. Dubuc/</p> <p>Signature</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) _____ Marisa J. Dubuc</p> <p>Typed or printed name</p> <p><input checked="" type="checkbox"/> attorney or agent of record. _____ 860-286-2929</p> <p>Registration number 46,673 Telephone number</p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. _____ February 12, 2007</p> <p>Registration number if acting under 37 CFR 1.34 Date</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			

<input type="checkbox"/> *Total of _____ forms are submitted.
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This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Nicholas S. Huslak, et al. )  
 ) Group Art Unit: 2163  
Serial No.: 10/719,475 )  
 ) Examiner: Helene R. Rose  
Filed: November 21, 2003 )  
 ) Confirmation No: 3632  
For: A METHOD, SYSTEM, AND STORAGE )  
 MEDIUM FOR PROVIDING ADAPTIVE )  
 PROGRAMMING LISTINGS OVER A )  
 NETWORK )

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Pre-Appeal Brief Request for Review**

In response to the Final Office Action dated October 12, 2006, and in conjunction with the concurrently filed Notice of Appeal, the Applicants submit the following for entry in the above-identified application.

## REMARKS

Claims 1-23 are pending in the instant application. Claims 1-23 have been rejected by the Examiner under 35 U.S.C. 102(e) as anticipated by Brown et al. (U.S. Pat. No. 6,658,415, hereinafter "Brown"). The Applicants submit that the rejections of claims 1-23 are in error because the Examiner has not met the burden of establishing anticipation in contravention of the provisions of 35 USC 102.

With respect to claims 1, 11, and 21, the Examiner has misapplied the structures taught by Brown in rejecting these claims. Specifically, the Examiner states that items 46 and 48 (subcomponents of *remote server system* 38) of Fig. 3B in Brown are equivalent to the claimed customer entity. The Examiner then asserts that the claimed host system is equivalent to all features shown in Figure 4 (which *also* depicts remote server system 38) and that the host system of Figure 4 includes a server, which the Examiner states is server system 80 of Figure 3A. There is no teaching in Brown that the remote server system 38 of Figure 4 includes the server system 80 of Figure 3A. Moreover, it is unclear to the Applicants how the claimed client system can be equivalent to *both* the server system 80 *and* the remote server system 38 as alleged by the Examiner. By the Examiner's own analysis, the remote server system 38 (as both the claimed client system and host system), as applied to the Applicants' claims 1, 11, and 21 which recite "a host system in communication with said customer entity via a communications network", would be in communication with *itself* over a network.

The Examiner also asserts the claimed database of available programming data is taught in Brown at Col. 9, lines 31 - 40 as authorization settings 42a - 42n. However, the authorization settings 42a - 42n are taught in Brown as components of the *remote* server system 38, which the Examiner states is equivalent to the claimed client system. By this analysis, the database of available programming data would not be stored at the host system, but rather at the client system in contrast to the recited features of claims 1, 11, and 21. The Examiner further asserts that the claimed database of customer preferences is equivalent to user-designated preferences 44 of Fig. 4, which is also a subcomponent of *remote* server system 38.

The Examiner also states that the claimed database of program recommendation guides is equivalent to Fig. 8A of Brown. The data storage structure 260 of Fig. 8A "includes a listing of

authority-designated settings according to authority and type of setting for a particular child” (Col. 15, lines 34-36). Since “authority-designated settings include authority A authorization settings 42a through authority N authorization settings 42n” (Col. 9, lines 31 - 40), the Examiner has designated the *same structure* as both the claimed database of available programming data *and* the database of program recommendation guides.

The Examiner further relies on Fig. 6 of Brown as performing the claimed preference filtering features on the host system. However, the steps of Fig. 6, as disclosed in Brown, are performed on the *remote* server system 38.

The Examiner also states that claimed “storing said at least one selection in said database of customer preferences” is equivalent to Fig. 4, user designated preferences 44, stored in data storage medium 40 in Brown. Under the Examiner’s analysis, the customer entity and the databases of the host system are all stored in data storage medium 40 on the remote server system 38, while the server of the host system is across network 32 in server system 80. Thus, the structures relied on by the Examiner as allegedly teaching the features recited in claims 1, 11, and 21 are entirely inconsistent with these claims.

Because Brown does not teach or make obvious each and every feature recited in the Applicants’ claims 1, 11, and 21, the Applicants submit that there exists clear error in the outstanding rejections.

## CONCLUSION

In view of the foregoing, it is urged that the final rejection of claims 1-23 be overturned. The final rejection is in error and should be reversed. The fee set forth in 37 CFR 41.20(b)(1) is enclosed herewith. If there are any additional charges with respect to this Request, or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,  
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